

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 10-165(1) (DSD/JJK)

United States of America,

Plaintiff,

v.

ORDER

Gayle Deann Claus,

Defendant.

This matter is before the court upon the objections by defendant Gayle Deann Claus to the report and recommendation of Magistrate Judge Jeffrey J. Keyes dated September 10, 2010. In his report, the magistrate judge recommends denial of defendant's motions for severance and to order the government to deliver to defendant's counsel any statements by co-defendants that the government intends to use as evidence. Defendant objects.

The court reviews the report and recommendation of the magistrate judge de novo. See 28 U.S.C. § 636(b)(1)©); D. Minn. LR 72.2(b). Following a de novo review of the file, record and proceedings herein, the court concludes that the magistrate judge's well-reasoned report and recommendation correctly denies defendant's motion to sever as premature. See United States v. Toney, 161 F.R.D. 77, 85 (N.D. Iowa 1995); see also Richardson v. Marsh, 481 U.S. 200, 209 (1987). As to defendant's Rule 14(b)

motion, the intervening superseding indictment and defendant's renewed motion for severance renders the motion moot. Accordingly,

IT IS HEREBY ORDERED that:

1. Defendant's objections [Doc. No. 103] are overruled; and
2. The court adopts the magistrate judge's report and recommendation [Doc. No. 94] in its entirety.

Dated: October 5, 2010

s/David S. Doty
David S. Doty, Judge
United States District Court